

AMOUNT \$ 250  
SUMMONS ISSUED N/A  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. PN  
DATE 6-14-05

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**MAURA HENRY and others similarly  
situated,**

**Plaintiff,**

**v.**

**BOSTON CENTER FOR ADULT  
EDUCATION, INC., and RONALD  
BOCAGE, as President for the Boston  
Center for Adult Education and Individually,**

**Defendants.**

Civil Action No. \_\_\_\_\_

**NOTICE OF REMOVAL**

**05 - 11244 RWZ**

TO: The Honorable Judges of the  
United States District Court  
District of Massachusetts

MAGISTRATE JUDGE Alexander

Petitioners, Boston Center for Adult Education and Ronald Bocage (hereinafter

“Defendants”), defendants in the above entitled action, state:

1. Defendants desire to exercise their rights under the provisions of 28 U.S.C. § 1441, *et seq.*, to remove this action from the Superior Court for Middlesex County, Cambridge, Massachusetts, in which said cause is now pending under the name and style *Maura Henry and others similarly situated, Plaintiffs v. Boston Center for Adult Education Incorporated and Ronald Bocage, As President of the Boston Center for Adult Education and Individually, Defendants*, Civil Action No. 05-1606. Defendants were served a Summons and a copy of a Complaint in this action on or about May 26, 2005. A copy of the Summons and Complaint, are attached hereto as Exhibit A.

2. Count VI of above-described action is one of which this court has original

jurisdiction under the provisions of 28 U.S.C. § 1331, and is one which may be removed to this court by Defendants, pursuant to the provisions of 28 U.S.C. § 1441, wherein it arises under the laws of the United States, namely the 29 U.S.C. §§ 1132 and 1166.

3. Defendants both consent to this removal and are filing this notice within thirty (30) days of service of the Summons and Complaint, as required by 28 U.S.C. § 1446.

4. Defendants will file a notice of filing this Notice of Removal and a copy of the Notice of Removal with the Clerk, Superior Court for Middlesex County, 40 Thorndike Street, Cambridge, Massachusetts 02141, pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit B.

6. Defendants will serve written notice to opposing counsel of the filing of this Notice of Removal and copies of this Notice of Removal will be served on opposing counsel pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit C.

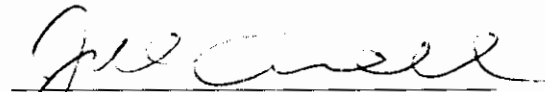
WHEREFORE, Defendants pray that the above action now pending against him in the Superior Court for Middlesex County, Cambridge, Massachusetts be removed therefrom to this Court.

Respectfully submitted,

BOSTON CENTER FOR ADULT  
EDUCATION and RONALD BOCAGE,

By Their Attorneys,

MORGAN, BROWN & JOY, LLP  
200 State Street  
Boston, Massachusetts 02108  
(617) 523-6666 (telephone)  
(617) 367-3125 (facsimile)

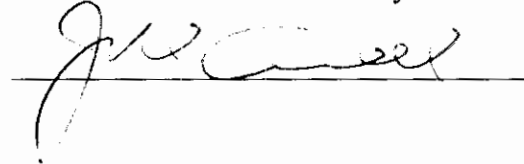


Joseph P. McConnell (BBO No. 566412)  
[jmcconnell@morganbrown.com](mailto:jmcconnell@morganbrown.com)

Date: June 14, 2005

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon counsel for plaintiff, Ara J. Balikian, Esq. and Kristen M. Hurley, Esq., Gordon & Balikian LLP, 535 Boylston Street, 6<sup>th</sup> Floor, Boston, MA 02116, by first-class U.S. mail this 14<sup>th</sup> day of June 2005.



TO PLAINTIFF: TORNEY: PLEASE CIRCLE TYPE OF ACT INVOLVED: —  
 TORT — MOTOR VEHICLE TORT — CONTRACT —  
 EQUITABLE RELIEF — OTHER

## COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT  
 DEPARTMENT  
 OF THE  
 TRIAL COURT  
 CIVIL ACTION  
 No. 05 - 1606

MIDDLESEX, ss  
 [seal]

Maura Henry and  
 Others Similarly Situated Plaintiff(s)

v.

Boston Center for Adult Education Defendant(s)  
 Incorporated and Ronald Borage,  
 As President of Boston Center for  
 Adult Education, Incorporated and Individually  
 SUMMONS

To the above-named Defendant: Boston Center for Adult Education, Incorporated

You are hereby summoned and required to serve upon Ara J. Balikian, Esq.

plaintiff's attorney, whose address is Gordon W. Balikian, LLP,  
 535 Boylston St., 6th Fl., Boston, MA 02116, an answer to the complaint which is herewith  
 served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you  
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also  
 required to file your answer to the complaint in the office of the Clerk of this court at 40 Thorndike  
 Street, Cambridge, MA 02141 either before service upon plaintiff's attorney or within a  
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may  
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
 claim or you will thereafter be barred from making such claim in any other action.

Barbara J. Rouse

Witness, Suzanne V. D'Arcevallo, Esquire, at

the day of  
 in the year of our Lord

Attest: Deputy Sheriff Suffolk County  
 Edward J. Sullivan Clerk

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

PLAINTIFF(S) <b>MAURA HENRY and OTHERS SIMILARLY SITUATED</b>	DEFENDANT(S) <b>BOSTON CENTER FOR ADULT EDUCATION, INC and RONALD BOUACHE</b>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <b>Armen J. Balikian, Gordon and Balikian, LLP 635 Boylston St., 6th Fl., Boston, MA 02116 Board of Bar Overseers number: 630576 617-536-1801</b>	ATTORNEY (if known)

## Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint  
☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
 (Before trial) (F)  
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)  
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)  
☐ 6. E10 Summary Process Appeal (X)

## TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?

A99 Wage Act Violation C149 (F) ( ) Yes (X) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

## TORT CLAIMS

(Attach additional sheets as necessary)

## A. Documented medical expenses to date:

1. Total hospital expenses ..... \$  
 2. Total Doctor expenses ..... \$  
 3. Total chiropractic expenses ..... \$  
 4. Total physical therapy expenses ..... \$  
 5. Total other expenses (describe) ..... \$

Subtotal \$

- B. Documented lost wages and compensation to date ..... \$  
 C. Documented property damages to date ..... \$  
 D. Reasonably anticipated future medical and hospital expenses ..... \$  
 E. Reasonably anticipated lost wages ..... \$  
 F. Other documented items of damages (describe) ..... \$

## G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$  
 TOTAL \$

## CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s): The defendant is the former employer of the plaintiff, which owes the plaintiff the sum of \$4,184.66 in wages, \$46,940.57 for wrongful termination and \$17,500 in statutory penalties.

At least \$62,625.23  
 TOTAL \$62,625.23

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 5-2-05



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURTS  
CIVIL ACTION NO.:

\*\*\*\*\*

MAURA HENRY and )  
OTHERS SIMILARLY SITUATED, )  
Plaintiffs, )

v. )

BOSTON CENTER FOR ADULT )  
EDUCATION, INCORPORATED and )  
RONALD BOCAGE, As President of )  
Boston Center for Adult Education )  
and Individually, )  
Defendants )

\*\*\*\*\*

COMPLAINT

Nature of the Case

1. This is a cause of action: (1) pursuant to MGL c. 149 §§ 148 and 150 seeking damages and injunctive relief for non-payment of wages in the form of a final paycheck, paid vacation time, and a pro-rated TIAA/CREF contribution; (2) for wrongful termination; and (3) pursuant to 29 U.S.C.A. §§ 1132 and 1166 seeking statutory damages for failure to provide the requisite health plan continuation of coverage election notice. Plaintiff, Maura Henry, is a former employee of Defendant, Boston Center for Adult Education, Incorporated.

The Parties

2. The Plaintiff, Maura Henry, is an individual residing at 40 Spruce Street, Watertown, Middlesex County, Massachusetts.
3. Defendant, Boston Center for Adult Education, Incorporated ("BCAE"), is a Massachusetts non-profit corporation with a principal place of business located at 5 Commonwealth Avenue, Boston, Suffolk County, Massachusetts.
4. Defendant, Ronald Bocage, is an individual residing at 220 Boylston Street, Boston, Suffolk County, Massachusetts. At all relevant times, Ronald Bocage was the president of BCAE.

**Facts**

5. From on or about April 14, 2004 until September 22, 2004, Maura Henry was employed as the Director of Education for the BCAE.
6. On or about April 14, 2004, Maura Henry began receiving complaints from teachers employed by the BCAE regarding non-payment of paychecks and reimbursements from the BCAE, despite having completed their course work.
7. On or about April 14, 2004, Maura Henry contacted the BCAE's Director of Finance to determine why the BCAE's teachers were not getting paid and reimbursed. Maura Henry was informed that the BCAE routinely withheld paychecks and reimbursements as a matter of common practice.
8. On or about August 17, 2004, Maura Henry learned that the BCAE had also failed to issue life insurance policies to members of its staff as it was required to do within 30 days of a staff member's hire. In addition, Maura Henry learned that the BCAE consistently and knowingly failed to make contributions to staff members TIAA-CREF retirement accounts.
9. On or about August 17, 2004, Maura Henry met with Allen Austill, a member of the BCAE's Board of Directors and Co-Chair of its Educational Policy Committee, to discuss her concerns about the BCAE's business practices and violations.
10. On or about September 14, 2004, Maura Henry met with again with Allen Austill to discuss her concerns about the BCAE's business practices and violations. Nancy Roberts, the Co-Chair of the BCAE's Educational Policy Committee, was also present at this meeting. During the meeting, Allen Austill informed Maura Henry that the matters she was concerned about were administrative and that they should be discussed with Mary McTigue, the BCAE's Executive Director.
11. On or about September 15, 2004, as instructed, Maura Henry met with Mary McTigue to discuss her concerns about the BCAE's business practices and violations.
12. Soon thereafter, on or about September 22, 2004, the BCAE terminated Maura Henry's employment.
13. During the course of her employment, Maura Henry worked continuously, diligently, and effectively on behalf the BCAE.
14. At the time of her discharge, the BCAE failed, refused and/or neglected to pay Maura Henry in full.

15. Despite demands from Maura Henry for proper payment of her earned wages, the BCAE has still failed, refused, and/or neglected to pay Maura Henry her wages in full.
16. Within 44 days of her discharge, the BCAE failed and/or refused to provide Maura Henry with the requisite health plan continuation of coverage election notice.
17. Despite demands from Maura Henry for a written election notice, the BCAE has failed and/or refused in bad faith to provide Maura Henry with the election notice.
18. Others Similarly Situated, as that term is defined in M.G.L. c. 149, §150 have also worked for the BCAE and have not received the proper compensation as required by law.
19. Maura Henry has satisfied all prerequisites and conditions precedent necessary to entitle her to seek remedy against the BCAE by this action.
20. Attached hereto as Exhibit "A" is a letter from the Office of the Attorney General authorizing Ms. Henry to pursue her claim for unpaid wages through a civil complaint lawsuit and a copy of the Non-Payment of Wage Complaint Form filed by Ms. Henry with the Office of the Attorney General.

**COUNT I**

(Henry v. Defendants)  
M.G.L. c. 149

21. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 20 above and incorporates them by reference herein.
22. The BCAE promised to pay wages to Maura Henry in the form of a final paycheck, paid vacation time, and a pro-rated TIAA/CREF contribution.
23. The BCAE has failed to pay the wages due and owing Maura Henry in violation of Massachusetts General Laws Chapter 149.
24. As a result of the BCAE's violation of Massachusetts General Laws Chapter 149, Maura Henry has incurred harm and loss in the sum of at least \$4,184.66.

**COUNT II**

(Henry v. Defendants)  
M.G.L. c. 149

25. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 24 above and incorporates them by reference herein.



26. The BCAE promised to pay wages to Others Similarly Situated to Maura Henry.
27. The BCAE has failed to pay Others Similarly Situated to Maura Henry wages due and owing them in violation of Massachusetts General Laws Chapter 149.
28. As a result of the BCAE's violation of Massachusetts General Laws Chapter 149, Others Similarly Situated to Maura Henry have incurred harm and loss in an amount to be determined.

**COUNT III**

(Henry v. Boston Center for Adult Education, Incorporated)  
Breach of Contract

29. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 28 above and incorporates them by reference herein.
30. The BCAE entered into an unambiguous and enforceable contract that requires it to pay Maura Henry wages in the form of a final paycheck, paid vacation time, and a pro-rated TIAA/CREF contribution.
31. In breach of its contract with Maura Henry, the BCAE has failed to pay Maura Henry wages due and owing her.
32. As a result of the BCAE's breach of its contract, Maura Henry has incurred harm and loss in the sum of at least \$4,184.66.

**COUNT IV**

(Henry v. Boston Center for Adult Education, Incorporated)  
Wrongful Termination

33. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 32 above and incorporates them by reference herein.
34. In breach of the implied covenant of good faith and fair dealing, the BCAE terminated Maura Henry's employment after she reported financial wrongdoing to its Directors.
35. Acting in bad faith, the BCAE terminated Maura Henry for refusing to engage in fraudulent bookkeeping practices, an activity which is clearly illegal.
36. As a result of the BCAE's wrongful termination, Maura Henry has incurred harm and loss in the sum of at least \$40,940.57.

**COUNT V**

(Henry v. Boston Center for Adult Education, Incorporated)  
Fraud/Misrepresentation/Deceit

37. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 36 above and incorporates them by reference herein.
38. The BCAE represented to Maura Henry that she would be working for a financially stable organization operating in compliance with federal and state laws.
39. The BCAE failed to inform Maura Henry that it was in a severe financial crisis when she asked about the financial health of company during the interview process. Moreover, the BCAE never disclosed its unlawful activities.
40. Maura Henry relied upon the representations made by the BCAE.
41. The BCAE's representations were false, and made with the intention to deceive Maura Henry and induce her to work for the BCAE.
42. As a result of the BCAE's fraud, misrepresentation and deceit, Maura Henry has incurred harm and loss in the sum of at least \$40,940.57.

**COUNT VI**

(Henry v. Boston Center for Adult Education, Incorporated)  
29 U.S.C.A. §§ 1132 and 1166

43. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 42 above and incorporates them by reference herein.
44. The BCAE failed to provide Maura Henry with the requisite health plan continuation of coverage election notice within 44 days of her termination.
45. Maura Henry specifically requested the election notice via email on or about October 26, 2004, but in bad faith BCAE failed to provide Maura Henry with the election notice.
46. To date, 175 days past the statutory election notice due date, Maura Henry has not received a written election notice. As a result, Ms. Henry is currently without health insurance.
47. Pursuant to 29 U.S.C.A § 1132, BCAE is subject to the statutory penalty of \$100.00 per day, or \$17,500.00, for failure to provide Maura Henry an election notice in bad faith.

**COUNT VII**

(Henry v. Boston Center for Adult Education, Incorporated)  
Negligent Infliction of Emotional Distress

48. Maura Henry repeats and re-alleges the allegations set forth in Paragraphs 1 to 47 above and incorporates them by reference herein.
49. By its actions the BCAE negligently inflicted emotional distress on Maura Henry.
50. The BCAE's actions caused Maura Henry to suffer severe emotional distress, loss of dignity, anxiety, humiliation and mental anguish.
51. A reasonable person would have suffered emotional distress under the circumstances.
52. As a result of the BCAE's fraud, misrepresentation and deceit, Maura Henry has incurred harm and loss in an amount to be determined.

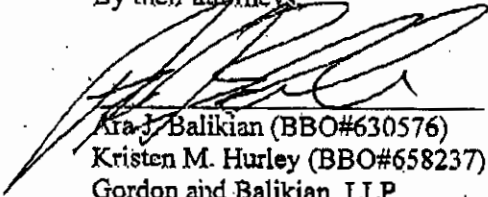
**DEMAND FOR JUDGMENT**

WHEREFORE, Plaintiffs pray that this Court enter judgment as follows:

- A. Against the defendants for the damage owed to the Plaintiffs, plus interest, costs and reasonable attorney fees provided by Massachusetts General Law Chapter 149;
- B. Against the defendants for treble damages pursuant to Massachusetts Chapter 149;
- C. Issue a preliminary injunction enjoining Boston Center for Adult Education, Incorporated from failing to pay wages to its present employees;
- D. Issue a permanent injunction enjoining Boston Center for Adult Education, Incorporated from failing to pay wages to its present and future employees;
- E. Against Boston Center for Adult Education, Incorporated for wrongful termination in violation of public policy;
- F. Against Boston Center for Adult Education, Incorporated for failure to provide the requisite health plan continuation of coverage election notice pursuant to 29 U.S.C.A §§ 1132 and 1166;

- G. Against Boston Center for Adult Education, Incorporated for negligent infliction of emotional distress; and
- H. Provide such other and further relief as the Court deems just and proper.

Respectfully submitted,  
PLAINTIFFS  
By their attorneys



Ara J. Balikian (BBO#630576)  
Kristen M. Hurley (BBO#658237)  
Gordon and Balikian, LLP  
535 Boylston Street, 6<sup>th</sup> Floor  
Boston, MA 02116  
Tel. 617-536-1801  
Fax. 617-536-1802

**EXHIBIT "A"**





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

(617) 727-2200  
www.sgo.state.ma.us

April 5, 2005

Maura Henry  
40 Spruce Street  
Watertown, MA. 02472

Re: Authorization for Immediate Private Suit: Boston Center For Adult Education

Dear Ms. Henry:

Thank you for contacting the Office of the Attorney General's Fair Labor and Business Practices Division.

This letter is to inform you that we have carefully reviewed your complaint and have determined that the proper resolution of this matter may be through a private suit in civil court. Accordingly, we are authorizing you to pursue this matter through a civil lawsuit immediately.

Massachusetts General Laws chapter 149, § 150, and chapter 151, §§ 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws. If you elect to sue in civil court, you may bring an action on your own behalf and others similarly situated, and you may obtain injunctive relief, treble damages for any loss of wages and other benefits, as well as the costs of litigation and reasonable attorneys' fees.

Without making a judgment on the merits of your complaint, this correspondence represents this office's written assent to sue and grants you the authority to pursue this matter against your employers immediately, as permitted by Massachusetts General Laws chapters 149 and 151. This office will not take further enforcement action at this time.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Buduo", followed by a horizontal line.

Robert Buduo  
Inspector  
Fair Labor and Business Practices Division  
(617) 727-2200, extension 2324



The Commonwealth of Massachusetts  
Office of the Attorney General

One Ashburton Place  
Boston, MA 02108

(617) 727-3200  
<http://www.ago.state.ma.us>

Non-Payment of Wage Complaint Form (04-01197-S)

Maura Henry  
40 Spruce Street  
Watertown

MA 02472

Date of Birth:	09-02-1965	Soc Sec #:	042-66-8900
Work Phone:	617-926-1565	Home Phone:	617-926-1565
What type of work did you perform: DIRECTOR OF EDUCATION			

Company Name: BOSTON CENTER FOR ADULT EDUCATION			
Address: 5 COMMONWEALTH AVENUE			
City: BOSTON	State: MA	Zip: 02116	
Phone: 617-267-4450	Total Number of Employees in Company: approximately 20		
Owner/Pres Name: RONALD BOCAVE	Title: PRESIDENT OF BOARD		
Local Mgr Name: MARY METIGUE			
Town where work was performed: BOSTON			

Date of Hire: 14 APRIL 2004	Were you discharged: YES	Date of discharge: 22 SEPT 2004
Did you leave:	Date:	Reason for leaving: TERMINATED
If you left, did you make a personal demand for this money? _____		If yes, what was the response
of the employer:		
Rate of pay: 40 HOUR	per (hour/week): \$ 1201.93	Unpaid wages: \$ 2403.86
PLUS VACATION		

What dates did you work for the money which you claim you are owed:  
 From: 09/13/2004 To: 09/29/2004 Total amount owed: \$ 2403.86 + VACATION

Have you signed a contract as a consultant or independent contractor? NO

Do you have an attorney representing you in this matter? YES

Have you taken any other action against your employer in this matter? NO If yes, please explain:

Are you willing to fully cooperate with the Attorney General's Office, which may include appearing in court? YES

EXPLAIN IN DETAIL the facts relating to why you were not paid or why you are filing this complaint. If your complaint involves vacation pay, briefly explain how you earned vacation time (e.g. one week per year, one week after one year, monthly accrual, etc.)

I WAS FIRED ON 22 SEPT 2004, ONE WEEK AFTER BRINGING SERIOUS CONCERNS ABOUT BUSINESS PRACTICES TO TWO BOARD MEMBERS. I WAS ESCORTED OUT OF THE BUILDING ON 22 SEPT + WAS NOT PAID. ON 30 SEPT 2004 A LETTER POSTMARKED 29 SEPT 2004 THAT INCLUDED A BACKDATED CHECK TO 23 SEPT 2004 ARRIVED AT MY HOME. THE CHECK WAS NOT ITEMIZED, DID NOT APPEAR TO INCLUDE VACATION DAYS OWED, AND WAS SENT BASIC VIA REGISTERED LETTER ON 7 OCT 2004. NO RESPONSE OR CHECK HAS BEEN RECEIVED DESPITE FOLLOW UP REQUESTS SENT ON 26 OCTOBER. VACATION DAYS WERE EARNED AT 1.25 DAYS PER MONTH.

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS IS A TRUE STATEMENT OF THE FACTS RELATING TO MY COMPLAINT.

Signature: Maura A. Henry Date: 17 NOVEMBER 2004

Print Name: MAURA A. HENRY, PH.D.

Please attach copies of any supporting information (e.g. pay stubs, employment policy, etc...) Important: send only copies - save the originals for your records.

**COMMONWEALTH OF MASSACHUSETTS**

**MIDDLESEX, ss.**

**SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURTS**

**CIVIL ACTION NO. 05-1606**

**MAURA HENRY and others similarly  
situated,**

**Plaintiff,**

**v.**

**BOSTON CENTER FOR ADULT  
EDUCATION, INC., and RONALD  
BOCAGE, as President for the Boston  
Center for Adult Education and Individually,**

**Defendants.**

**NOTICE OF REMOVAL  
OF ACTION TO FEDERAL COURT**

TO: Clerk  
Superior Court for Middlesex County  
40 Thorndike Street  
Cambridge, Massachusetts 02141

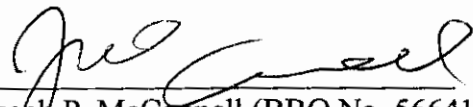
PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, a Notice of Removal (with attachments thereto) and a Notice to Opposing Counsel of Notice of Removal are being filed this day with the Clerk of the United States District Court for the District of Massachusetts. Copies of said Notice of Removal and a Notice to Opposing Counsel of Notice of Removal are attached hereto.

Respectfully submitted,

BOSTON CENTER FOR ADULT  
EDUCATION and RONALD BOCAGE,

By Their Attorneys,

MORGAN, BROWN & JOY, LLP  
200 State Street  
Boston, Massachusetts 02108  
(617) 523-6666 (telephone)  
(617) 367-3125 (facsimile)

  
\_\_\_\_\_  
Joseph P. McConnell (BBO No. 566412)  
[jmcconnell@morganbrown.com](mailto:jmcconnell@morganbrown.com)

Date: June 14, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon counsel for plaintiff, Ara J. Balikian, Esq. and Kristen M. Hurley, Esq., Gordon & Balikian LLP, 535 Boylston Street, 6<sup>th</sup> Floor, Boston, MA 02116, by first-class U.S. mail this 14<sup>th</sup> day of June 2005.

  
\_\_\_\_\_



**COMMONWEALTH OF MASSACHUSETTS**

**MIDDLESEX, ss.**

**SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURTS**

**CIVIL ACTION NO. 05-1606**

**MAURA HENRY and others similarly  
situated,**

**Plaintiff,**

**v.**

**BOSTON CENTER FOR ADULT  
EDUCATION, INC., and RONALD  
BOCAGE, as President for the Boston  
Center for Adult Education and Individually,**

**Defendants.**

**NOTICE TO COUNSEL OF  
REMOVAL OF ACTION TO  
FEDERAL COURT**

To: Ara J. Balikian, Esq. and Kristen M. Hurley, Esq.,  
Gordon & Balikian LLP  
535 Boylston Street, 6<sup>th</sup> Floor  
Boston, Massachusetts 02116

PLEASE TAKE NOTICE that Defendants in the above-captioned matter, have on the 14<sup>th</sup> day of June 2005 filed in the United States District Court of the District of Massachusetts their Notice of Removal of the above-styled action from the Superior Court, Middlesex County, Cambridge, Massachusetts (a copy of said Notice is attached hereto) to the United States District Court for the District of Massachusetts, at Boston, Massachusetts, together with copies of the Complaint filed by the Plaintiff in the Superior Court, Middlesex County, Cambridge, Massachusetts.

You are also advised that said Defendants, upon filing said Notice, filed a Notice of

Removal to Federal Court with the Clerk, Superior Court, Middlesex County, Cambridge, Massachusetts, and, and attached thereto copies of the following: (1) Notice of Removal with exhibits attached thereto; and (2) the Notice to Counsel of Removal of Action to Federal Court.

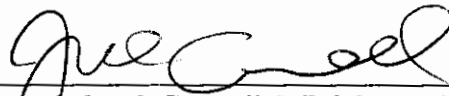
Such action has effected the removal of this action to the United States District Court for the District of Massachusetts, in accordance with the provisions of 28 U.S.C. §§ 1441 and 1446 and no further proceedings may be had in this state court action.

Respectfully submitted,

BOSTON CENTER FOR ADULT  
EDUCATION and RONALD BOCAGE,

By Their Attorneys,


MORGAN, BROWN & JOY, LLP  
200 State Street  
Boston, Massachusetts 02108  
(617) 523-6666 (telephone)  
(617) 367-3125 (facsimile)

  
Joseph P. McConnell (BBO No. 566412)  
[jmcconnell@morganbrown.com](mailto:jmcconnell@morganbrown.com)

Date: June 14, 2005

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon counsel for plaintiff, Ara J. Balikian, Esq. and Kristen M. Hurley, Esq., Gordon & Balikian LLP, 535 Boylston Street, 6<sup>th</sup> Floor, Boston, MA 02116, by first-class U.S. mail this 14<sup>th</sup> day of June 2005.

  
\_\_\_\_\_

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Maura Henry

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Ara J. Balikian, 535 Boylston St.  
6th Floor, Boston, MA 02116

## DEFENDANTS

Boston Center for Adult Education  
and Ronald Bocagli

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)  
Joseph P. McConnell, Morgan Brown & Joy  
LLP, 200 State Street, Boston, MA  
02109

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. 1132 1166

Brief description of cause: Action for wages and COBRA rights

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

N/A

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

06-14-05

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Henry v. Boston Center for Adult Education  
et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

015 - 11244 RWZ

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Joseph P. McConnell

ADDRESS Morgan, Brown & Joy LLP, 200 State Street, Boston, MA

TELEPHONE NO. 617-523-6666 02109